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There are certain main features of the two volumes now under review which it is worth while to indicate. In the first place, these volumes are of great interest and value in that they give us the leading characteristics of Marshall's personality and the chief facts in his public and private life during the years from 1800 to his death in 1835 in his eightieth year. In the second place, the volumes give us much information, presented in an entertaining way, about the life of Marshall's judicial and political contemporaries. The life of Story finds, for instance, a fitting place in the "Life of John Marshall," his friend and colleague. In the third place, the volumes constitute a history of political movements and political parties in one of the most critical periods of American development. In the fourth place, the volumes are a valuable treasury of information on social conditions. In the fifth place, there is a great deal of light thrown by the volumes on the judicial and legal history of the times. In the sixth place, the student of international law will find much of interest. In the words of John Bassett Moore, "it was Marshall's lot in more than one case to blaze the way in the establishment of rules of international conduct." This aspect of Marshall's work is given special treatment in the third chapter of Volume IV. Finally, to the student of American constitutional law Mr. Beveridge's volumes are a storehouse of sound learning. In them the great cases of the early part of the nineteenth century are all set forth — from the point of view of Marshall's biographer and of the historian of the times. As remarked by James Bradley Thayer in his short masterpiece of biography, "John Marshall" — a masterpiece not displaced in the slightest degree by Mr. Beveridge's longer work — "in the field of constitutional law, . . . and especially in one department of it, that relating to the nature and scope of the National Constitution, he was preëminent, — first, with no one second." Senator Beveridge has dealt adequately with Marshall's achievements in this field in which he was so preëminent; and it is this feature of the biography which the lawyer will chiefly prize.

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HISTORY OF ROMAN PRIVATE LAW: PART III, REGAL PERIOD. By E. C. Clark, LL.D., Emeritus Professor of Civil Law in the University of Cambridge, also of Lincoln's Inn Barrister-at-Law. Cambridge: University Press. 1919.

This is the third part of a work the first portion of which, on the Sources, was published as early as 1906 by the late Professor Clark. At his death the author left materials for a further continuation of it, but Mr. Buckland, who prepared the present installment for the press, is of opinion that they are not sufficiently advanced to warrant their publication under Dr. Clark's name.

In estimating the merits and importance of this work, then, it must be remembered that it is only a part, and a posthumous part, of a large plan, undertaken many years ago and never brought to completion. Obviously a judgment of the present volume must somewhat depend upon its place in the author's whole plan and upon the soundness of that plan itself.

Professor Clark was originally moved to undertake the large task of a new history of Roman law by the feeling that existing treatises generally failed sufficiently to distinguish between the law of one period and that of others; the conviction that a development of a thousand years from the primitive law of a small Italian city state to the refinement and universality of the "classical period" cannot be successfully compressed within the treatment of any single period.

This view had been obscured somewhat by the necessity under which many

of our modern German guides have hitherto labored of combining Roman law proper with *heutiges römisches Recht*. The writers of *Pandektenrecht* have been forced, as Tribonian's committee was itself required, to mould the earlier materials into a system of binding law, which obviously cannot be done without modification of those materials at many points. It is this which has created for the historian of Roman law his greatest problem, the distinguishing of the earlier law in the amended extracts of the Digest, and the difficulty has not been lessened by the fact that our German guides have been under an additional difficulty of the same kind. The German reception of Roman law has been a great stimulus to its study, but Roman law's becoming "common" has possibly further heightened the difficulty of disentangling the earlier from the later. Since the days of Cujas and the Humanists this has been true, at times increasingly so. In the seventeenth and eighteenth centuries it was the order of the "Law of Nature" that must be followed, *Les Lois Civiles dans leur Ordre Naturel* of Domat; in the nineteenth century it was the fusion of native and foreign rules into one practical system. Thus the history of Roman law has since the Glossators been oscillating between the extremes of the practical and the antiquarian, and now the adoption of modern codes seems to be sending the pendulum back again toward the antiquarian. In Germany the older books on *Pandektenrecht* are supplanted on the one hand by commentaries on the German civil code, and on the other by treatises on the pure Roman law, such as Mitteis's *Römisches Privatrecht bis auf die Zeit Diokletians*. In France, M. Cuq's *Institutions Juridiques des Romains* — to take one well-known handbook only — carefully distinguishes the primitive, the classical, and the Justinian law in its treatment, instead of fusing them all in one general account. In England, the late Professor Roby, in probably the best recent English book on Roman law, tried to confine his treatment to "Roman Private Law in the Times of Cicero and of the Antonines."

Such a method certainly makes for clearness of treatment and definiteness of statement and the adoption of this principle is the greatest merit of Professor Clark's general plan. The merits of its execution are possibly somewhat more open to question. The first part, on the Sources, for example, published in 1906, will hardly be much consulted by any one who has Krüger's *Geschichte der Quellen des Römischen Rechts*, an almost perfect book of its kind, which had appeared in both German and French when Clark's first part was published, and has since come out in a second German edition.

The present volume, the third installment of Professor Clark's work, is almost entirely composed of a discussion of the early Roman constitution with long excursions into ethnology. It is hardly possible to judge such a book as a history of Roman law, as most of the part on private law has not appeared, and probably never will appear. What has appeared is comparable in general scope to Karlowa's first volume without the second, but covering a much smaller period of time. In it the author gives an account, often very suggestive and evidently based on an independent examination of the sources, of the whole constitutional development roughly to the establishment of the Republic. This involves some examination of the historical value of the traditional account of early Rome, which the author has, however, made more fully in his first volume. He has included also detailed *excursus* on the patriarchal theory and the institutions of the early Germanic peoples analogous to those of ancient Rome. This makes the treatment somewhat rambling and discursive.

Dr. Clark first takes up the primitive family, and after an examination of the patriarchal theory and of the views of McLennan, Morgan, and others in opposition to it, ends by "preferring the Patriarchal Theory in its simpler fundamental principles . . . to the ingenious structure raised by Bachofen and McLennan upon supports the main recommendation of which appear to be their bizarre and repulsive character."

In like manner he treats the Roman family in the early historic period, comparing it with the kinship groups of the early Germanic peoples; and of the *gens*, with appendices on the Teutonic gilds and the Anglo-Saxon units of local government. Thus he proceeds through the early Roman assemblies to the pontiffs, and finally to the king and to kingship in general, with a section on the Servian system. The book ends with a discussion of the *Leges Regiae*, shorter than one might have expected from the extent of the constitutional part. The general authenticity of these laws as fragments of the customary law probably of the regal period the author is inclined to accept, on account of the nature of their subject matter and their archaic language. In Part I he had already discussed Pomponius's story of their publication by Papirius, whom he prefers with Pais to place in the third century B. C. instead of the first, as Mommsen and Girard conclude.

Taken as a whole, Professor Clark's "History of Roman Law" must be judged as a partial fulfilment of a plan first made nearly half a century ago. The appearance in this long interval of such books as Karlowa's *Römische Rechtsgeschichte*; Cuq's *Institutions Juridiques*, of which three editions have appeared; Krüger's and Kipp's *Geschichte der Quellen*; and others, has made this fulfilment much less important than would have been the case when the work was first undertaken; and Professor Clark's volumes have rendered none of those others obsolete. Nevertheless, though Dr. Clark's History is never likely to displace Krüger's abler discussion of the sources or Cuq's clearer exposition of the principles of Rome's early law, it does furnish stimulating and independent views on many a point in the history of Roman public and private law to which the student may profitably turn.

C. H. McILWAIN.

A LAWYER'S LIFE ON TWO CONTINENTS. By WALLIS NASH. Boston: Richard G. Badger. Copyrighted 1919. pp. 212. Illustrated.

The vast difference between practicing law in the world's metropolis and dabbling in it in a pioneer rural community such as Oregon was a generation ago is a topic full of suggestion both as to the adaptability of the common law system to widely divergent conditions, and possibly as to the limits of that adaptability. Wallis Nash plunged from the one into the other, when at the age of forty in 1879, he left England where he had been a successful solicitor, to make his home in Corvallis, Oregon. The venture that brought him here, the Oregon Pacific Railroad, failed, making some men rich and others, including Nash's little colony, poor, and driving him back to his old profession of law in the new surroundings.

He hardly seems conscious of the light that his experience might shed on one of the great juristic problems of the day — the adaptation of rural pioneer law to urban conditions. His simple narration is concerned rather with his pleasant recollections of vacations and of interesting meetings, both professional and social, with such men as Sir Henry Bessemer, Alexander Graham Bell, Charles H. Spurgeon, Canon Liddon, Herbert Spencer, Charles Darwin, and Mrs. Craik. Occasionally he introduces the lawyers of his day and his pen-sketches of a few of them are remarkably clear. Take, for example, his description of three well-known figures (p. 55): "Sir George Jessel was big, burly, rough-voiced, and with one movable eye that used to revolve in an alarming fashion. He was the most quick-witted of the three, and a most effective advocate. Sir Hugh Cairns was tall, graceful, light-haired, and one of the handsomest of men. His face was that of an ancient Greek. His voice was carefully modulated, but quite cold in tone. Sir Roundell Palmer was held to be the best-equipped lawyer of the day. His delivery in Court was most deliberate and every word counted."

The contrast between the community which he left and that which he entered